

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Shelly MacLellan
2861 Izzard Lane
Redding, CA 96001

Registered Nurse License No. 614815

Respondent

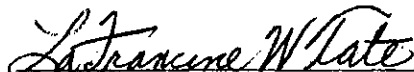
Case No. 2007-272

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on January 28, 2008.

IT IS SO ORDERED December 28, 2007.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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2 of the State of California
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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-272

SHELLY MACLELLAN, RN
2861 Izzard Lane
Redding, CA 96001-4224

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

RN License No. 614815

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Jeffrey M. Phillips, Deputy Attorney General.

2. Respondent Shelly MacLellan, RN is represented in this proceeding by
attorney Anthony Cardoza, whose address is 414 Salem Street, Chico, CA 95928.

3. On or about March 4, 2003, the Board of Registered Nursing issued RN
License No. 614815 to Shelly MacLellan, RN ("Respondent"). The RN was in full force and

1 effect at all times relevant to the charges brought in Amended Accusation No. 2007-272 and will
2 expire on September 30, 2008, unless renewed.

3 JURISDICTION

4 4. Amended Accusation No. 2007-272 was filed before the Board of
5 Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against
6 Respondent. The initial Accusation and Amended Accusation and all other statutorily required
7 documents were properly served on Respondent on April 23, 2007 and August 22, 2007,
8 respectfully. Respondent timely filed her Notice of Defense contesting the Accusation. A copy
9 of Amended Accusation No. 2007-272 is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, discussed with counsel, and fully
13 understands the charges and allegations in Amended Accusation No. 2007-272. Respondent has
14 also carefully read, discussed with counsel, and fully understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Amended Accusation; the right to be
18 represented by counsel at her own expense; the right to confront and cross-examine the witnesses
19 against her; the right to present evidence and to testify on her own behalf; the right to the
20 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
21 the right to reconsideration and court review of an adverse decision; and all other rights accorded
22 by the California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 BY HER GUILTY PLEA
26 SEC. 17010, 17011, 17012, 17013, 17014, 17015, 17016, 17017, 17018, 17019, 17020, 17021, 17022, 17023, 17024, 17025, 17026, 17027, 17028, 17029, 17030, 17031, 17032, 17033, 17034, 17035, 17036, 17037, 17038, 17039, 17040, 17041, 17042, 17043, 17044, 17045, 17046, 17047, 17048, 17049, 17050, 17051, 17052, 17053, 17054, 17055, 17056, 17057, 17058, 17059, 17060, 17061, 17062, 17063, 17064, 17065, 17066, 17067, 17068, 17069, 17070, 17071, 17072, 17073, 17074, 17075, 17076, 17077, 17078, 17079, 17080, 17081, 17082, 17083, 17084, 17085, 17086, 17087, 17088, 17089, 17090, 17091, 17092, 17093, 17094, 17095, 17096, 17097, 17098, 17099, 17100, 17101, 17102, 17103, 17104, 17105, 17106, 17107, 17108, 17109, 17110, 17111, 17112, 17113, 17114, 17115, 17116, 17117, 17118, 17119, 17120, 17121, 17122, 17123, 17124, 17125, 17126, 17127, 17128, 17129, 17130, 17131, 17132, 17133, 17134, 17135, 17136, 17137, 17138, 17139, 17140, 17141, 17142, 17143, 17144, 17145, 17146, 17147, 17148, 17149, 17150, 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4 **DISCIPLINARY ORDER**

5 In consideration of the foregoing admissions and stipulations, the parties agree
6 that the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 IT IS HEREBY ORDERED that RN License No. 614815 issued to Respondent
9 Shelly MacLellan, RN is revoked. However, the revocation is stayed and Respondent is placed
10 on probation for five (5) years on the following terms and conditions.

11 **Severability Clause.** Each condition of probation contained herein is a separate
12 and distinct condition. If any condition of this Order, or any application thereof, is declared
13 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
14 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
15 and enforceable to the fullest extent permitted by law.

16 1. **Actual Suspension of License.** Respondent is suspended from the
17 practice of registered nursing for 12 months beginning the effective date of this Decision. During
18 the suspension period, all probation conditions are in full force and effect except those relating to
19 actual nursing practice. Further, the 12 month period of suspension will not be considered as
20 "probationary time" should the Respondent apply for any reduction of period of probation.

21 2. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
22 A full and detailed account of any and all violations of law shall be reported by Respondent to
23 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
24 compliance with this condition, Respondent shall submit completed fingerprint forms and
25 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
26 as part of the licensure application process.

27 **Criminal Court Orders:** If Respondent is under criminal court orders, including
28 probation or parole, and the order is violated, this shall be deemed a violation of these probation

conditions, and may result in the filing of an accusation and/or petition to revoke probation.

3. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

4. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

5. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

6. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be

1 required by the Board or its representatives.

2 Respondent shall provide a copy of this Decision to the nursing regulatory agency
3 in every state and territory in which she has a registered nurse license.

4 **7. Function as a Registered Nurse.** Respondent, during the period of
5 probation, shall engage in the practice of registered nursing in California for a minimum of 24
6 hours per week for 6 consecutive months or as determined by the Board, after Respondent has
7 completed her suspension from practice.

8 For purposes of compliance with the section, "engage in the practice of registered
9 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
10 work in any non-direct patient care position that requires licensure as a registered nurse.

11 The Board may require that advanced practice nurses engage in advanced practice
12 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
13 Board.

14 If Respondent has not complied with this condition during the probationary term,
15 and Respondent has presented sufficient documentation of her good faith efforts to comply with
16 this condition, and if no other conditions have been violated, the Board, in its discretion, may
17 grant an extension of Respondent's probation period up to one year without further hearing in
18 order to comply with this condition. During the one year extension, all original conditions of
19 probation shall apply.

20 **8. Employment Approval and Reporting Requirements.** Respondent
21 shall obtain prior approval from the Board before commencing or continuing any employment,
22 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
23 performance evaluations and other employment related reports as a registered nurse upon request
24 of the Board.

25 Respondent shall provide a copy of this Decision to her employer and immediate
26 supervisors prior to commencement of any nursing or other health care related employment.

27 In addition to the above, Respondent shall notify the Board in writing within
28 seventy-two (72) hours after she obtains any nursing or other health care related employment.

1 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
2 terminated or separated, regardless of cause, from any nursing, or other health care related
3 employment with a full explanation of the circumstances surrounding the termination or
4 separation.

5 9. **Supervision.** Respondent shall obtain prior approval from the Board
6 regarding Respondent's level of supervision and/or collaboration before commencing or
7 continuing any employment as a registered nurse, or education and training that includes patient
8 care.

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11 Respondent shall practice only under the direct supervision of a registered nurse
12 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
13 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
14 are approved.

15 Respondent's level of supervision and/or collaboration may include, but is not
16 limited to the following:

17 (a) Maximum - The individual providing supervision and/or collaboration is
18 present in the patient care area or in any other work setting at all times.

19 (b) Moderate - The individual providing supervision and/or collaboration is in
20 the patient care unit or in any other work setting at least half the hours Respondent works.

21 (c) Minimum - The individual providing supervision and/or collaboration has
22 person-to-person communication with Respondent at least twice during each shift worked.

23 (d) Home Health Care - If Respondent is approved to work in the home health
24 care setting, the individual providing supervision and/or collaboration shall have person-to-
25 person communication with Respondent as required by the Board each work day. Respondent
26 shall maintain telephone or other telecommunication contact with the individual providing
27 supervision and/or collaboration as required by the Board during each work day. The individual
28 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-

1 site visits to patients' homes visited by Respondent with or without Respondent present.

2 **10. Employment Limitations.** Respondent shall not work for a nurse's
3 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
4 traveling nurse, or for an in-house nursing pool.

5 Respondent shall not work for a licensed home health agency as a visiting nurse
6 unless the registered nursing supervision and other protections for home visits have been
7 approved by the Board. Respondent shall not work in any other registered nursing occupation
8 where home visits are required.

9 Respondent shall not work in any health care setting as a supervisor of registered
10 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
11 nurses and/or unlicensed assistive personnel on a case-by-case basis.

12 Respondent shall not work as a faculty member in an approved school of nursing
13 or as an instructor in a Board approved continuing education program.

14 Respondent shall work only on a regularly assigned, identified and predetermined
15 worksite(s) and shall not work in a float capacity.

16 If Respondent is working or intends to work in excess of 40 hours per week, the
17 Board may request documentation to determine whether there should be restrictions on the hours
18 of work.

19 **11. Complete a Nursing Course(s).** Respondent, at her own expense, shall
20 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
21 than six months prior to the end of her probationary term.

22 Respondent shall obtain prior approval from the Board before enrolling in the
23 course(s). Respondent shall submit to the Board the original transcripts or certificates of
24 completion for the above required course(s). The Board shall return the original documents to
25 Respondent after photocopying them for its records.

26 **12. Cost Recovery.** Respondent shall pay to the Board costs associated with
27 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
28 amount of \$13,789.00. Respondent shall be permitted to pay these costs in a payment plan

1 approved by the Board, with payments to be completed no later than three months prior to the
2 end of the probation term.

3 If Respondent has not complied with this condition during the probationary term,
4 and Respondent has presented sufficient documentation of her good faith efforts to comply with
5 this condition, and if no other conditions have been violated, the Board, in its discretion, may
6 grant an extension of Respondent's probation period up to one year without further hearing in
7 order to comply with this condition. During the one year extension, all original conditions of
8 probation will apply.

9 **13. Violation of Probation.** If Respondent violates the conditions of her
10 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
11 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
12 license.

13 ///

14 If during the period of probation, an accusation or petition to revoke probation has
15 been filed against Respondent's license or the Attorney General's Office has been requested to
16 prepare an accusation or petition to revoke probation against Respondent's license, the
17 probationary period shall automatically be extended and shall not expire until the accusation or
18 petition has been acted upon by the Board.

19 **14. License Surrender.** During Respondent's term of probation, if she ceases
20 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
21 probation, Respondent may surrender her license to the Board. The Board reserves the right to
22 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
23 take any other action deemed appropriate and reasonable under the circumstances, without
24 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
25 will no longer be subject to the conditions of probation.

26 Surrender of Respondent's license shall be considered a disciplinary action and
27 shall become a part of Respondent's license history with the Board. A registered nurse whose
28 license has been surrendered may petition the Board for reinstatement no sooner than the

1 following minimum periods from the effective date of the disciplinary decision:

2 (1) Two years for reinstatement of a license that was surrendered for any
3 reason other than a mental or physical illness; or

4 (2) One year for a license surrendered for a mental or physical illness.

5 15. **Physical Examination.** Within 45 days of the effective date of this
6 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
7 physician assistant, who is approved by the Board before the assessment is performed, submit an
8 assessment of the Respondent's physical condition and capability to perform the duties of a
9 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
10 medically determined, a recommended treatment program will be instituted and followed by the
11 Respondent with the physician, nurse practitioner, or physician assistant providing written
12 reports to the Board on forms provided by the Board.

13 ///

14 If Respondent is determined to be unable to practice safely as a registered nurse,
15 the licensed physician, nurse practitioner, or physician assistant making this determination shall
16 immediately notify the Board and Respondent by telephone, and the Board shall request that the
17 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
18 shall immediately cease practice and shall not resume practice until notified by the Board.
19 During this period of suspension, Respondent shall not engage in any practice for which a license
20 issued by the Board is required until the Board has notified Respondent that a medical
21 determination permits Respondent to resume practice. This period of suspension will not apply
22 to the reduction of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within
24 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
25 practice until notified by the Board. This period of suspension will not apply to the reduction of
26 this probationary time period. The Board may waive or postpone this suspension only if
27 significant, documented evidence of mitigation is provided. Such evidence must establish good
28 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be

1 provided. Only one such waiver or extension may be permitted.

2 **16. Participate in Treatment/Rehabilitation Program for Chemical**
3 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
4 period or shall have successfully completed prior to commencement of probation a Board-
5 approved treatment/rehabilitation program of at least six months duration. As required, reports
6 shall be submitted by the program on forms provided by the Board. If Respondent has not
7 completed a Board-approved treatment/rehabilitation program prior to commencement of
8 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
9 a program. If a program is not successfully completed within the first nine months of probation,
10 the Board shall consider Respondent in violation of probation.

11 Based on Board recommendation, each week Respondent shall be required to
12 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
13 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
14 by the Board. If a nurse support group is not available, an additional 12-step meeting or
15 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
16 such attendance to the Board during the entire period of probation. Respondent shall continue
17 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
18 mental health examiner and/or other ongoing recovery groups.

19 **17. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
20 shall completely abstain from the possession, injection or consumption by any route of all
21 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
22 the same are ordered by a health care professional legally authorized to do so as part of
23 documented medical treatment. Respondent shall have sent to the Board, in writing and within
24 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
25 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
26 medication will no longer be required, and the effect on the recovery plan, if appropriate.

27 Respondent shall identify for the Board a single physician, nurse practitioner or
28 physician assistant who shall be aware of Respondent's history of substance abuse and will

1 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
2 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
3 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
4 condition. If any substances considered addictive have been prescribed, the report shall identify a
5 program for the time limited use of any such substances.

6 The Board may require the single coordinating physician, nurse practitioner, or
7 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
8 addictive medicine.

9 18. **Submit to Tests and Samples.** Respondent, at her expense, shall
10 participate in a random, biological fluid testing or a drug screening program which the Board
11 approves. The length of time and frequency will be subject to approval by the Board.
12 Respondent is responsible for keeping the Board informed of Respondent's current telephone
13 number at all times. Respondent shall also ensure that messages may be left at the telephone
14 number when she is not available and ensure that reports are submitted directly by the testing
15 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
16 to the Board by the program and Respondent shall be considered in violation of probation.

17 In addition, Respondent, at any time during the period of probation, shall fully
18 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
19 tests and samples as the Board or its representatives may require for the detection of alcohol,
20 narcotics, hypnotics, dangerous drugs, or other controlled substances.

21 If Respondent has a positive drug screen for any substance not legally authorized
22 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
23 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
24 from practice pending the final decision on the petition to revoke probation or the accusation.
25 This period of suspension will not apply to the reduction of this probationary time period.

26 If Respondent fails to participate in a random, biological fluid testing or drug
27 screening program within the specified time frame, Respondent shall immediately cease practice
28 and shall not resume practice until notified by the Board. After taking into account documented

1 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
2 Board may suspend Respondent from practice pending the final decision on the petition to
3 revoke probation or the accusation. This period of suspension will not apply to the reduction of
4 this probationary time period.

5 **19. Mental Health Examination.** Respondent shall, within 45 days of the
6 effective date of this Decision, have a mental health examination including psychological testing
7 as appropriate to determine her capability to perform the duties of a registered nurse. The
8 examination will be performed by a psychiatrist, psychologist or other licensed mental health
9 practitioner approved by the Board. The examining mental health practitioner will submit a
10 written report of that assessment and recommendations to the Board. All costs are the
11 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
12 result of the mental health examination will be instituted and followed by Respondent.

13 If Respondent is determined to be unable to practice safely as a registered nurse,
14 the licensed mental health care practitioner making this determination shall immediately notify
15 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
16 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
17 practice and may not resume practice until notified by the Board. During this period of
18 suspension, Respondent shall not engage in any practice for which a license issued by the Board
19 is required, until the Board has notified Respondent that a mental health determination permits
20 Respondent to resume practice. This period of suspension will not apply to the reduction of this
21 probationary time period.

22 If Respondent fails to have the above assessment submitted to the Board within
23 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
24 practice until notified by the Board. This period of suspension will not apply to the reduction of
25 this probationary time period. The Board may waive or postpone this suspension only if
26 significant, documented evidence of mitigation is provided. Such evidence must establish good
27 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
28 provided. Only one such waiver or extension may be permitted.

1 20. **Therapy or Counseling Program.** Respondent, at her expense, shall
2 participate in an on-going counseling program until such time as the Board releases her from this
3 requirement and only upon the recommendation of the counselor. Written progress reports from
4 the counselor will be required at various intervals.

5
6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and
8 have fully discussed it with my attorney, Anthony Cardoza. I understand the stipulation and the
9 effect it will have on my RN. I enter into this Stipulated Settlement and Disciplinary Order
10 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
11 Board of Registered Nursing.

12 DATED: 9-17-07

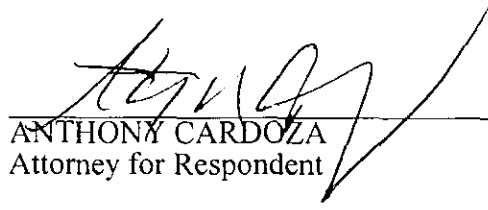
13 
14 SHELLY MACLELLAN, RN (Respondent)
Respondent

15 ///

16 ///

17 I have read and fully discussed with Respondent Shelly MacLellan, RN the terms
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
19 Order. I approve its form and content.

20 DATED: 9/17/07

21 
22 ANTHONY CARDOZA
Attorney for Respondent

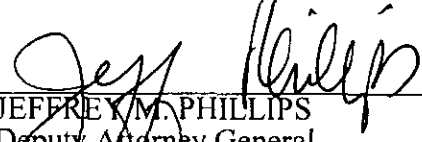
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24 ENDORSEMENT

25 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
26 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
27 Affairs.

28 DATED: 10/4/07

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EDMUND G. BROWN JR., Attorney General
of the State of California


JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Amended Accusation No. 2007-272

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 322-8288

7 Attorneys for Complainant
8
9

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-272

13 **SHELLY JENICE MACLELLAN**
2861 Izzard Lane
14 Redding, California 96001-4224

AMENDED ACCUSATION

15 Registered Nurse License No. RN 614815

16 Respondent.
17

18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:
19

PARTIES

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about March 4, 2003, the Board issued Registered Nurse License
24 Number 614815 ("license") to Shelly Jenice MacLellan ("Respondent"). The license will expire
25 on September 30, 2008, unless renewed.

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1 (b) Use any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
4 injurious to himself or herself, any other person, or the public or to the extent that such use
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
6 license.

7 (c) Be convicted of a criminal offense involving the prescription, consumption, or
8 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
9 or the possession of, or falsification of a record pertaining to, the substances described in
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
11 thereof.

12 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
13 entries in any hospital, patient, or other record pertaining to the substances described in
14 subdivision (a) of this section."

15 COST RECOVERY

16 7. Code section 125.3 provides, in pertinent part, that the Board may request
17 the administrative law judge to direct a licentiate found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 DRUGS

21 8. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate also
22 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and
23 Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

24 9. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also
25 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and
26 Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

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28 ///

FIRST CAUSE FOR DISCIPLINE

(Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)

10. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(e), in that between December 2, 2005, and December 31, 2005, while employed as a registered nurse at Enloe Medical Center, located in Chico, California, Respondent falsified, made grossly incorrect, grossly inconsistent or unintelligible entries in hospital or patient records in the following respects:

Patient A:

a. On or about December 2, 2005, at 1208 hours, Respondent signed out 2 tablets of Vicodin for administration, but failed to chart the administration of the medication or otherwise account for the disposition of the medication on any hospital or patient record.

Patient B:

b. On or about December 2, 2005, at 1304 hours, Respondent signed out 2 tablets of Vicodin for administration, but failed to chart the administration of the medication or otherwise account for the disposition of the medication on any hospital or patient record. In addition, the signing out of the medication for administration was inconsistent with physician's orders which called for one tablet of Vicodin.

Patient C:

c. On or about December 12, 2005, at 1011 and 1345 hours, Respondent signed out 1 tablet of Vicodin for administration, but failed to chart the administration of the medication or otherwise account for the disposition of the medication on any hospital or patient record. In addition, the signing out of the medication for administration was inconsistent with physician's orders which called for one tablet of Vicodin every 4 hours.

Patient D:

d. On or about December 19, 2005, at 1846 hours, Respondent signed out 1 tablet of Vicodin for administration, but failed to chart the administration of the medication or otherwise account for the disposition of the medication on any hospital or patient record.

1 **Patient E:**

2 e. On or about December 16, 2005, at 0935 hours, Respondent signed out
3 2 tablets of Norco for administration. Respondent charted the administration of 1 tablet on the
4 patient's medication administration record at 0940 hours, but failed to account for the disposition
5 of the remaining 1 tablet of Norco in any hospital or patient record. In addition, the signing out
6 of the medication for administration was inconsistent with physician's orders which called for 1
7 tablet of Norco every 3 hours.

8 f. On or about December 16, 2005, at 1833 hours, Respondent signed out
9 1 tablet of Norco for administration, but failed to chart the administration of the medication or
10 otherwise account for the disposition of the medication on any hospital or patient record.

11 **Patient F:**

12 g. On or about December 30, 2005, at 0818 hours, Respondent signed out
13 1 tablet of Norco for administration. Respondent charted the administration of 1 tablet on the
14 patient's medication administration record at 0820, but failed to chart the administration of the
15 medication in the nursing notes. In addition, the medication order was written at 0830 hours,
16 which is 12 minutes after the withdrawal of the medication.

17 h. On or about December 30, 2005, at 0828 hours, Respondent signed out
18 1 tablet of Norco for administration. Respondent charted the administration of 1 tablet on the
19 patient's medication administration record at 0830, but failed to chart the administration of the
20 medication in the nursing notes. Again, the medication order was written at 0830 hours, which is
21 2 minutes after the withdrawal of the medication.

22 i. On or about December 30, 2005, at 1356 hours, Respondent signed out
23 2 tablets of Norco for administration. Respondent charted the administration of 2 tablet on the
24 patient's medication administration record at 1400, but failed to chart the administration of the
25 medication in the nursing notes. In addition, the signing out of the medication for administration
26 was inconsistent with physician's orders which did not call for the administration of that
27 medication in that the prescription was canceled at 0840 hours.

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1 j. On or about December 31, 2005, at 0826 hours, Respondent signed out
2 2 tablets of Norco for administration, but failed to chart the administration of the medication or
3 otherwise account for the disposition of the medication on any hospital or patient record. In
4 addition, the signing out of the medication for administration was inconsistent with physician's
5 orders which did not call for the administration of that medication in that the prescription was
6 canceled on December 30, 2005, at 0840 hours.

7 k. On or about December 31, 2005, at 1238 hours, Respondent signed out
8 2 tablets of Norco for administration., Respondent charted the administration of 1 tablet on the
9 patient's medication administration record at 1240 hours, but failed to account for the disposition
10 of the remaining 1 tablet of Norco on any hospital or patient record. In addition, the signing out
11 of the medication for administration was inconsistent with physician's orders which did not call
12 for the administration of that medication in that the prescription was canceled on
13 December 30, 2005, at 0840 hours.

14 l. On or about December 31, 2005, at 1713 hours, Respondent signed out
15 2 tablets of Norco for administration. Respondent charted the administration of 1 tablet on the
16 patient's medication administration record at 1730 hours, but failed to account for the disposition
17 of the remaining 1 tablet of Norco on any hospital or patient record. In addition, the signing out
18 of the medication for administration was inconsistent with physician's orders which did not call
19 for the administration of that medication in that the prescription was canceled on
20 December 30, 2005, at 0840 hours.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Possess and Self-Administer Controlled Substances)**

23 11. Respondent is subject to discipline under Code section 2761(a), on the
24 grounds of unprofessional conduct as defined in Code section 2762(a), in that on or about
25 March 8, 2004, while employed as a registered nurse at Enloe Medical Center, located in Chico,
26 California, Respondent did the following:

27 a. Possessed Hydrocodone, a controlled substance, in violation of Code section
28 4060, in that Respondent did not have a prescription for that controlled substance.

1 b. Self-administered Hydrocodone, a controlled substance, without direction to
2 do so from a licensed physician and surgeon, dentist or podiatrist.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Attempted to Obtain a Controlled Substance)**

5 12. Respondent is subject to discipline under Code section 2761(a), on the
6 grounds of unprofessional conduct as defined in Code section 2762(a), in that on or about
7 November 2, 2003, while employed as a registered nurse at Redding Medical Center, located in
8 Redding, California, Respondent did the following:

9 a. Attempted to obtain Norco, a controlled substance, by fraud, deceit,
10 misrepresentation or subterfuge or by the concealment of a material fact in violation of Health
11 and Safety Code section 11173(a), by altering a prescription written by a physician for 8 tablets
12 and changing the number of tablets to 28, and then submitting the fraudulent prescription to
13 Walgreens Pharmacy for processing.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Conviction of a Crime)**

16 13. Respondent is subject to discipline under Code section 2762(f), in that she
17 was convicted of the following crimes that are substantially related to the qualifications,
18 functions or duties of a registered nurse:

19 a. On or about May 15, 2007, in the case of *People v. Shelly Jenice*
20 *Maclellan*, (Super. Ct. Tehama County, 2007, Case No. NCR71304), Respondent was convicted
21 by the Court on her plea of no contest of violating Vehicle Code section 23152(b) (driving while
22 blood-alcohol level was .08 percent or higher); and Code section 4060 (possession of a
23 controlled substance).

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime Involving the Consumption of Alcohol and**
3 **Possession of a Controlled Substance)**

4 14. Respondent is subject to discipline under Code section 2761(a) on the
5 grounds of unprofessional conduct as defined in Code section 2762(c), in that on or about
6 May 15, 2007, Respondent was convicted of a crime involving the consumption of alcohol and
7 possession of a controlled substance, as more particularly set forth above in paragraph 13.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Dangerous Use of Alcohol)**

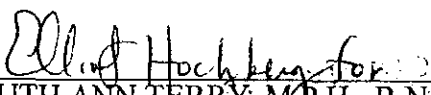
10 15. Respondent is subject to discipline under Code section 2761(a) on the
11 grounds of unprofessional conduct as defined in Code section 2762(b), in that on or about
12 May 15, 2007, Respondent used alcoholic beverages to an extent or in a manner dangerous or
13 injurious to herself and the public, as more particularly set forth above in paragraph 13.

14 **PRAYER**

15 **WHEREFORE**, Complainant requests that a hearing be held on the matters
16 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 614815, issued
18 to Shelly Jenice MacLellan;
19 2. Ordering Shelly Jenice MacLellan to pay the Board of Registered Nursing
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Code section
21 125.3; and,
22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 8/21/07

24 
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant